State Medical Board of Ohio
77 S. High St., 17th Floor • Columbus, OH 43266-0315 • (614) 466-3934 • Website: www.state.oh.us/med

April 14, 1999

Bharesh Dedhia, M.D.
Oriana House, RIP
P. O. Box 1801
Akron, OH 44307

Dear Doctor Dedhia:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Daniel Roberts, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 14, 1999, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 233 840 234
RETURN RECEIPT REQUESTED

Mailed 4/16/99

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on April 14, 1999, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Bharesh Dedhia, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

Anand G. Garg, M.D.
Secretary

(SEAL)

April 14, 1999
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

BHARESH DEDHIA, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on April 14, 1999.

Upon the Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

> The certificate of Bharesh Dedhia, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

Anand G. Garg, M.D.
Secretary

(SEAL)

April 14, 1999
Date

STATE MEDICAL BOARD

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REPORT AND RECOMMENDATION
IN THE MATTER OF BHARESH DEDHIA, M.D.

The Matter of Bharesh Dedhia, M.D., was heard by Daniel Roberts, Attorney Hearing Examiner for the State Medical Board of Ohio, on December 11, 1998.

INTRODUCTION

I. Basis for Hearing

A. By letter dated July 8, 1998, the State Medical Board of Ohio [Board] notified Bharesh Dedhia, M.D., that it had proposed to determine whether to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board based its proposed action on the following allegation:

> On March 29, 1995, in the United States District Court of the Northern District of Ohio, Eastern Division, a jury found Dr. Dedhia guilty of: one count of Marriage Fraud, 8 U.S.C. 1325(b), a felony. Dr. Dedhia was also found guilty of three counts of Fraud and Misuse of Government Documents, 18 U.S.C. 1546(a), each a felony; and two counts of Making False Statements, 18 U.S.C. 1001, each a felony.

The Board alleged that Dr. Dedhia's conduct constitutes "'publishing a false, fraudulent, deceptive, or misleading statement,' as that clause is used in Section 4731.22(B)(5), Ohio Revised Code."

The Board further alleged that Dr. Dedhia's conduct constitutes "'[a] plea of guilty to, or a judicial finding of guilt of, a felony,' as that clause is used in Section 4731.22(B)(9), Ohio Revised Code."

Accordingly, the Board advised Dr. Dedhia of his right to a hearing in this matter. (State's Exhibit 1)

B. On August 10, 1998, Dr. Dedhia submitted a written hearing request. (State's Exhibit 2)

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II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca J. Albers, Assistant Attorney General.

B. On behalf of the Respondent: Respondent did not appear in person or by representative, nor did he submit any arguments or contentions in writing.

EVIDENCE EXAMINED

I. Testimony Heard

None

II. Exhibits Examined

Presented by the State

A. State's Exhibits 1-6, 7A, 7B and 12: Procedural exhibits.

B. State's Exhibit 8: Copy of June 18, 1996, Order by the United States District Court for the Northern District of Ohio, Eastern Division, granting Dr. Dedhia's motion for a new trial and striking two counts of the indictment in case number 1:94CR0281, *United States v. Dedhia.*

C. State's Exhibit 9: Copy of *United States v. Dedhia,* 134 F.3d 802; 1998 U.S. App. LEXIS 854;1998 FED App. 0026P, decided January 22, 1998, reversing the decision of the lower court and reinstating Dr. Dedhia's conviction on all six counts of the original indictment.

D. State's Exhibit 10: Certified copy of May 5, 1998, Judgment in a Criminal Case, *United States v. Dedhia* 1:94CR281-001.

E. State's Exhibit 11: Copy of November 23, 1998, Order by the United States District Court for the Northern District of Ohio, Eastern Division, granting a joint motion for a modification of sentence and order of deportation.

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SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

1. The decision of the United States Court of Appeals for the Sixth Circuit in *United States v. Dedhia,* decided January 22, 1998, outlines effectively and concisely the underlying facts that gave rise to the indictment of Bharesh Dedhia, M.D. The decision describes the evidence upon which the federal jury convicted Dr. Dedhia of Marriage Fraud, Fraud and Misuse of Government Documents, and Making False Statements, as follows:

> Bharesh Dedhia, a native of India, came to the United States on a non-immigrant visitor's visa in January 1990, after finishing medical school in India. Despite the fact that the visa was for six months only and restricted Dedhia from working while in the United States, once here he began applying for surgical residency programs.
>
> On May 31, 1990, Dedhia married Rupal Patel, a naturalized United States citizen from India, in a civil ceremony in Illinois. The marriage had been arranged by both families at the initiation of Dedhia's sister, after the couple had spent only a few hours together. Because of Hindu tradition, the civil ceremony was considered merely an engagement, and the couple would not consider themselves to be married until a religious ceremony was performed. Despite repeated attempts by the "bride" and her family to schedule a Hindu wedding ceremony, it never took place. Nevertheless, after the civil ceremony, Dedhia changed his status to conditional permanent resident, based on his marriage to a United States citizen. Conditional residence entitled Dedhia to a conditional alien registration card ("green card").
>
> A month or so after the civil ceremony, Dedhia moved to Cleveland to begin a surgical residency program, leaving Patel behind in Chicago. As time went on, she noticed that he began to distance himself from her, postponing any discussion of the Hindu ceremony and urging her to "be patient." Both parties agree that the marriage was never consummated and that the couple never lived together, other than during brief visits.
>
> The conditional resident status of the kind Dedhia had is valid for two years. Before the two years end, a conditional resident must file a I-751 petition to remove the conditions on his or her

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residence. The petition is usually based on marriage to a United States citizen or permanent resident, and can be filed jointly by the married couple. The petitioner may, however, request a waiver of the joint filing requirement for several reasons: if the conditional resident spouse has been battered, if the United States citizen spouse is deceased, or if the conditional resident "entered into the marriage in good faith, but the marriage was terminated through divorce/annulment." If the Immigration and Naturalization Service approves the petition, it removes the conditions on a resident's status, and grants him or her permanent resident status. If a I-751 petition is not filed, the conditional resident status expires automatically at the end of the two year period.

On June 15, 1992, two months before his conditional status was set to expire, Dedhia filed an I-751 petition to remove the conditions on his residency, basing his request on his May 1990 marriage to Patel. The petition was purportedly filed jointly with Patel, and contained a signature that appeared to be hers. Also on the petition, Dedhia signed a section of the form affirming that "if the conditional residence was based on a marriage, I further certify that the marriage was entered into in accordance with the laws of the place where the marriage took place, and was not for the purpose of procuring an immigration benefit." As a result of the petition, Dedhia was granted a permanent alien registration card.

Several months after the removal of the conditions on his status, Dedhia initiated a breakup with Patel. Patel then commenced divorce proceedings, and a dissolution of the marriage was negotiated. In January 1993, seven months after the I-751 petition was filed, the marriage was invalidated on the grounds of fraud. The Judgment of Invalidity, which Dedhia signed, found that the Respondent, Bharesh Dedhia, purposely and intentionally misrepresented to the petitioner that he would marry her in a civil marriage ceremony as well as under the Hindu religion and that he was interested in her for a life-long relationship as husband and wife in order to obtain his Alien Registration card for the purpose of remaining in the United States and to obtain a contract for his residency in a hospital in Cleveland.

After the marriage was annulled, Patel filed a complaint with the Immigration and Naturalization Service, which began investigating Dedhia for marriage fraud. As part of the investigation, the Immigration and Naturalization Service interviewed Dedhia in

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February 1994. At the interview, Dedhia provided the Immigration and Naturalization Service agent with two documents to support his contention that his marriage to Patel had been bona fide. One document was a health insurance application, dated July 16, 1991, purporting to enroll Patel on Dedhia's health insurance. The second was a residential lease renewal dated June 1993, which appeared to have Patel's signature.

At trial, Patel testified that she did not sign either the I-751 petition or the lease renewal agreement. She also testified that she had had no contact with the defendant after the marriage was dissolved in January 1993 and thus could not have signed the lease renewal five months later. The government introduced testimony from a handwriting expert that Patel's signature on the I-751 form was a forgery. In addition, the government put forth testimony by the Chief Financial Officer of the health insurance company that the enrollment form was fraudulent for several reasons: it was never filed with the company for coverage, the form itself did not exist at the time it was purported to have been executed, it contained an incorrect coverage starting date, it contained inaccuracies in the billing clerk's name and number, and it lacked a date stamp.

Dedhia was indicted on six counts of marriage and related immigration fraud. Count one charged that the defendant entered marriage with the purpose of evading immigration laws, in violation of 8 U.S.C. § 1325(b). Count two charged that the defendant knowingly presented as true a false statement with respect to a material fact in an application to the Immigration and Naturalization Service, in violation of 18 U.S.C. § 1546(a). This charge was based on the allegation that Dedhia filed the I-751 form with Patel's signature forged and falsely certified that the marriage was not entered into to obtain immigration benefits. Count three charged that the defendant knowingly obtained and accepted an alien registration card, knowing it to have been procured by means of a false claim and fraud, in violation of 18 U.S.C. § 1546(a). Count four charged that the defendant knowingly possessed and used alien registration receipt cards to obtain employment as a surgical resident and to reenter the United States on two occasions, in violation of 18 U.S.C. § 1546(a). Counts five and six, based on the allegedly fraudulent insurance application form and lease renewal, charged that the defendant knowingly and intentionally made false statements in support of his claim that his marriage was not entered

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into with the purpose of circumventing the law of the United States, in violation of 18 U.S.C. §1001.

Dedhia was found guilty on all counts.

(St. Exs. 9 and 10) Dr. Dedhia appealed his conviction which was ultimately upheld on appeal. (St. Exs. 8, 9, and 10) Dr. Dedhia was sentenced to five months imprisonment and an additional five months of home incarceration. He was also ordered to pay a $300.00 fine and serve two years of supervised release. (St. Exs. 10 and 11)

2. Dr. Dedhia served the five months of imprisonment. On November 23, 1998, the United States District Court for the Northern District of Ohio ordered Dr. Dedhia's sentence be modified so that he would not have to serve the originally imposed five months home incarceration. Dr. Dedhia was deported from the United States on December 3, 1998. (St. Ex. 11)

FINDINGS OF FACT

On March 29, 1995, in the United States District Court of the Northern District of Ohio, Eastern Division, a jury found Bharesh Dedhia, M.D., guilty of: one count of Marriage Fraud, 8 U.S.C. 1325(b), a felony. Dr. Dedhia was also found guilty of three counts of Fraud and Misuse of Government Documents, 18 U.S.C. 1546(a), each a felony; and two counts of Making False Statements, 18 U.S.C. 1001, each a felony.

CONCLUSIONS OF LAW

1. The conduct of Bharesh Dedhia, M.D., which formed the basis of the decision of the United States District Court as described in the Findings of Fact constitutes "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

2. The finding of guilt, as described in the Finding of Fact, constitutes "[a] plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9),Ohio Revised Code.

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PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Bharesh Dedhia, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

Daniel Roberts
Attorney Hearing Examiner

EXCERPT FROM THE DRAFT MINUTES OF APRIL 14, 1999

REPORTS AND RECOMMENDATIONS

Dr. Steinbergh announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Steinbergh asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of Loren Scott Carlson, D.O.; Bharesh Dedhia, M.D.; Neal Ronald Glass, M.D.; Raymond A. Morehead, M.D.; Harry P. Nguyen, M.D.; and Robert B. McFaul, D.O. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

Dr. Steinbergh asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

In accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

Dr. Steinbergh stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

Dr. Steinbergh added that the matter of Robert B. McFaul, D.O., will be considered by the Board the following morning, to allow his attorney to be present during deliberations.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....

BHARESH DEDHIA, M.D.

.....

DR. BHATI MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF BHARESH DEDHIA, M.D. DR. AGRESTA SECONDED THE MOTION.

.....

A vote was taken on Dr. Bhati's motion to approve and confirm:

VOTE:		
	Mr. Albert	- abstain
	Dr. Bhati	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Egner	- aye
	Mr. Browning	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Buchan	- aye
	Dr. Steinbergh	- aye

The motion carried.

State Medical Board of Ohio
77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

July 8, 1998

Bharesh Dedhia, M.D.
30951 Lakeshore Blvd., #1166
Willowick, Ohio 44095

Dear Doctor Dedhia:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

1. On or about March 29, 1995, in the United States District Court of the Northern District of Ohio, Eastern Division, a jury found you guilty of: one count of Marriage Fraud, 8 U.S.C. 1325(b), a felony; three counts of Fraud and Misuse of Government Documents, 18 U.S.C. 1546(a), each a felony; and two counts of Making False Statements, 18 U.S.C. 1001, each a felony.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "[a] plea of guilty to, or a judicial finding of guilt of, a felony," as that clause is used in Section 4731.22(B)(9), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

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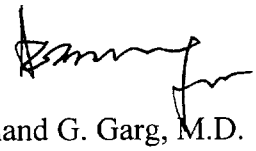
In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/bjs
Enclosures

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